

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

EUGENE POSEY,

Petitioner,

v.

Case No. 12-CV-10655

CATHERINE BAUMAN,<sup>1</sup>

Respondent.

HON. AVERN COHN

/

**ORDER GRANTING PETITIONER'S MOTION TO REOPEN CASE (Doc. 31)**  
**AND SETTING FILING DEADLINES**

I.

This is a habeas case under 28 U.S.C. § 2254. In 2012, Petitioner Eugene Posey, filed a *pro se* petition for a writ of habeas corpus challenging his convictions for second-degree murder, assault with intent to commit murder, and possession of a firearm in the commission of a felony. (Doc. 1). Respondent filed a motion to dismiss on the ground that the petition contained claims that had not been properly exhausted with the state courts. (Doc. 18). In lieu of dismissal, the Court held the petition in abeyance so that Petitioner could exhaust his additional claims with the state courts. The Court also administratively closed the case. (Doc. 24).

Before the Court is Petitioner's motion to reopen. (Doc. 31). For the reasons that follow, the motion will be granted. The Court will also impose filing deadlines.

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<sup>1</sup>The case caption is AMENDED to reflect that the proper respondent in this case is now Catherine Bauman, the warden of prison where petitioner is currently incarcerated. See *Edwards Johns*, 450 F. Supp. 2d 755, 757 (E.D. Mich. 2006); See also Rule 2(a), 28 foll. U.S.C. § 2254.

II.

Federal courts have the power to order that a habeas petition be reinstated upon timely request by a habeas petitioner, following the exhaustion of state court remedies. See e.g. *Rodriguez v. Jones*, 625 F. Supp. 2d 552, 559 (E.D. Mich. 2009). Because Petitioner now says that his claims have been exhausted, his case will be reopened and returned to the active docket.

III.

Petitioner's motion to reopen is **GRANTED**. The Clerk shall return the case to the Court's active docket.

Petitioner shall have **ninety (90) days** from the date of this order to file an amended habeas petition if he so chooses.

Respondent shall file a response with the entire state court record within **one hundred and eighty (180) days** of the date of this order or show cause why they are unable to comply with the order. See *Griffin v. Rogers*, 308 F. 3d 647, 653 (6<sup>th</sup> Cir. 2002); Rules Governing § 2254 Cases, Rule 5, 28 U.S.C. foll. § 2254.

Petitioner shall have **forty five (45) days** from the date that he receives the response to file a reply brief.

**SO ORDERED.**

S/Avern Cohn  
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AVERN COHN  
UNITED STATES DISTRICT JUDGE

Dated: September 2, 2015  
Detroit, Michigan